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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,502	10/27/2000	Nereida Maria Menendez	51017-79635	6442
21888 7590 04/16/2009 THOMPSON COBURN LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101				
EXAMINER				
VIG, NARESH				
ART UNIT		PAPER NUMBER		
3629				
NOTIFICATION DATE		DELIVERY MODE		
04/16/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPDOCKET@THOMPSONCOBURN.COM

# Office Action Summary

**Application No.**

09/698,502

**Applicant(s)**

MENENDEZ ET AL.

**Examiner**

NARESH VIG

**Art Unit**

3629

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-135 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 26-135 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is in reference to communication received 23 January 2009. Applicant has cancelled all previously pending claims and added new claims 26 – 135. Claims 1 – 135 are pending for examination/

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 26 – 61, 79 – 112 and 128 – 135**, drawn to system and method for creating and storing an electronic rental contract for a rental vehicle from a rental car company by permitting a user to bypass a rental counter , wherein user makes a reservation for a rental vehicle, later, goes to a kiosk at a rental car facility, retrieves the reservation, provides additional information if any, and is presented with a rental contract by: creating a rental vehicle reservation in response to data received through the website from a client system; retrieving the stored reservation transaction in response to the received user identification information; and providing information about the retrieved reservation transaction to the kiosk for display thereon; electronically accepting additional data from a user for a potential rental of a rental vehicle based on the rental vehicle reservation; communicating an electronic rental proposal for display to the user on the automated kiosk located in the car rental facility, the electronic rental

proposal being based on the rental vehicle reservation and the accepted additional data; creating an electronic rental contract for a rental vehicle in response to an electronic acceptance by the user of the electronic rental proposal through the kiosk, thereby resulting in the user bypassing the rental counter when creating the electronic rental contract; and storing a rental transaction within the server system, wherein the rental transaction is representative of the created electronic rental contract, classified in class 705, subclass 1.

- II. **Claims 62 – 78 and 113 – 127**, drawn to system and method for creating and storing an electronic rental contract for a rental vehicle such that a user need not visit a rental counter to create a rental contract when arriving at a car rental facility to pick up the rental vehicle, wherein user makes a reservation for a rental vehicle, and is presented with a rental contract upon the acceptance of the rental proposal in the same session when the user is making the reservation, by: creating a rental vehicle reservation in response to data received through the website from a client system; storing a reservation transaction within the server system; electronically accepting additional data from a user through the website for a potential rental of a rental vehicle based on the rental vehicle reservation; communicating an electronic rental proposal for display to the user on a web page of the website, the electronic rental proposal being based on the rental vehicle reservation and the accepted additional data;

creating an electronic rental contract for a rental vehicle in response to an electronic acceptance by the user of the electronic rental proposal, the electronic rental contract permitting the user to avoid creating a rental contract at the rental counter when arriving at the car rental facility to pick up a rental vehicle in accordance with the electronic rental contract; storing a rental transaction within the server system, wherein the rental transaction is representative of the created electronic rental contract, classified in class 705, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I – II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case,

**subcombination I** has separate utility such as system and method for creating and storing an electronic rental contract for a rental vehicle by permitting a user to bypass a rental counter, wherein user makes a reservation for a rental vehicle, later, goes to a kiosk at a rental car facility, retrieves the reservation, and completes a rental contract by: creating a rental vehicle reservation in response to data received through the website from a client system; retrieving the stored reservation transaction in response to the received user identification information; and providing information about the retrieved reservation transaction to the kiosk for display thereon; electronically

accepting additional data from a user for a potential rental of a rental vehicle based on the rental vehicle reservation; communicating an electronic rental proposal for display to the user on the automated kiosk located in the car rental facility; creating an electronic rental contract for a rental vehicle in response to an electronic acceptance by the user of the electronic rental proposal through the kiosk.

**subcombination II** has separate utility such as system and method for creating and storing an electronic rental contract for a rental vehicle such that a user need not visit a rental counter to create a rental, wherein user makes a reservation for a rental vehicle, and is presented with a rental contract upon the acceptance of the rental proposal in the same session when the user is making the reservation, by: creating a rental vehicle reservation in response to data received through the website from a client system; storing a reservation transaction within the server system; electronically accepting additional data from a user through the website for a potential rental of a rental vehicle based on the rental vehicle reservation; communicating an electronic rental proposal for display to the user on a web page of the website, creating an electronic rental contract for a rental vehicle in response to an electronic acceptance by the user of the electronic rental proposal.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement

will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone interview was not conducted due to complexity of the restriction requirement and since the examiner knows from past experience that an election will not be made by telephone. (see MPEP 812.01).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NARESH VIG whose telephone number is (571)272-6810. The examiner can normally be reached on Mon-Thu 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 13, 2009

/Naresh Vig/  
Primary Examiner, Art Unit 3629